

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT DONALD ALDO SPEARMAN

Appeal No. 2004-0891
Application No. 09/810,539

ON BRIEF

Before KIMLIN, KRATZ, and PAWLIKOWSKI, Administrative Patent Judges.

PAWLIKOWSKI, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1 and 5.

Claims 1 and 5 are representative of the subject matter on appeal and are set forth below:

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1. A vacuum cleaner installation comprising:

a room and a vacuum cleaner arrangement installed in said room, said vacuum cleaner arrangement including a housing,

a blower,

a receptacle for larger particles of waste material,

an inlet opening into the room and an air exhaust outlet venting through a rear wall of said housing,

wherein said housing is mounted in a hole extending through a wall of said room, said hole opening externally of the room such that said rear wall of said housing is exposed externally and said air exhaust outlet vents directly externally of the room without any external conduit such that all air and smaller particles of waste material vent outside the room with none of the air and smaller particles of waste material returning to the room.

5. An installation according to Claim 1, wherein said vacuum cleaner arrangement has a hose, and wherein said hose is retractable into said housing.

The examiner relies upon the following references as evidence of unpatentability:

Hamrick	3,568,239	Mar. 9, 1971
Tucker	3,706,184	Dec. 19, 1972
Simonelli	3,714,765	Feb. 6, 1973
Harrelson	5,740,582	Apr. 21, 1998
Uehara	6,149,698	Nov. 21, 2000

Claim 1 stands rejected under 35 U.S.C. § 103 as being unpatentable over Hamrick in view of Tucker and Uehara.

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Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over Hamrick in view of Tucker and Uehara and further in view of Harrelson.

Claim 1 stands rejected under 35 U.S.C. § 103 as being unpatentable over Simonelli.

Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over Simonelli in view of Harrelson.

On page 8 of the Brief, appellant states that the claims stand or fall together. We, therefore, consider independent claim 1. 37 CFR § 1.192(c)(7) and (8) (2003).

OPINION

For the reasons set forth in the answer and below, we affirm each of the rejections.

I. The rejection of claim 1 under 35 U.S.C. § 103 as being unpatentable over Hamrick in view of Tucker and Uehara

Beginning on page 9 of the brief, appellant argues that Hamrick does not suggest that the exhaust conduit can be removed such that the air exhaust outlet vents directly externally of the room without any external conduit. On page 12 of the brief, appellant again argues that Hamrick is silent on any teaching or suggestion to eliminate the exhaust conduit as required by the claims.

Upon our review of claim 1, we observe that it recites that "said rear wall of said housing is exposed externally and said air exhaust outlet vents directly externally of the room without

any external conduit such that all air and smaller particles of waste material vent outside the room." Appellant's figure 3 shows component 22, which is described on page 4 at line 11, as an outlet. Figure 3 shows that this outlet does have a length.

In Merriam-Webster's Collegiate Dictionary, Tenth Edition (2000), the word "conduit" is defined as "a natural or artificial channel through which something (as a fluid) is conveyed" or "a pipe, tube, or tile for protecting electric wires or cables." In the American Heritage Dictionary, Fourth Edition (2000), the word "conduit" is defined as "a pipe or channel for conveying fluids, such as water" or "a tube or duct for enclosing electric wires or cable". These definitions do not define a conduit as having a minimum length. Hence, outlet 22 as depicted in figure 3 can be interpreted as a pipe or channel, in view of the definitions provided herein. We appreciate that claim 1 recites "without any external conduit". However, claim 1 also recites an air exhaust outlet, and as depicted in figure 3, this air exhaust outlet 22, has a length, and we can interpret it as being a pipe of some sort.

In light of the above interpretation of claim 1, we provide the following.

Figure 13 of Hamrick depicts tubular fitting 116. This allows for air to be exhausted through a frontal portion of vacuum cleaner unit 10'. In this way, communication is established between the air exhaust side of fan motor 30' and the atmosphere in a corresponding room. Appellant has not established any patentable difference between this configuration and their claimed outlet 22. Claim 1 requires that outlet 22

vents directly externally of the room. Likewise, in Hamrick, air is exhausted through tubular air exhaust fitting 116 to the atmosphere in a corresponding room. See column 9, lines 15-30 of Hamrick. Furthermore, as pointed out by the examiner on page 7 of the answer, Hamrick recognizes the desirability of exhausting the air externally of the building or to a noninhabited portion of the building to prevent dust or the like from being returned back into the cleaned area of the building. See col. 4, lines 3-8 of Hamrick.

Also, as pointed out by the examiner, Tucker recognizes the disadvantages associated with the use of conduits in the wall because of costly services of carpenters to prepare passages for such conduits and plumbers to install them. The examiner also points out that Uehara teaches how to vent air from the inside of a room to an area exterior to the room. Each of these teachings also suggest the desirability of the wall-mounted vacuum cleaner of Hamrick (shown in figure 13), wherein a tubular fitting 116 is used in place of conduits, which allows for the exhaust of air to vent "directly externally of the room".

Beginning on page 12 of the brief, appellant argues that Hamrick is silent on any teaching or suggestion of a desire or ability to eliminate the exhaust conduit as required by the claimed invention. For the above reasons, we disagree with appellant's position.

On page 13 of the brief, appellant argues that the examiner admits that Hamrick is deficient with respect to disclosing an air exhaust outlet venting through a rear wall. However, as

stated by the examiner on page 4 of the answer, the location of the exhaust would have been obvious based upon the configuration requirements of varying size walls and units. Also, the examiner refers to Uehara for teaching locating the exhaust at the rear. Answer, page 4 and Figure 1 of Uehara.

In view of the above, we affirm the rejection.

II. The rejection of claim 5 under 35 U.S.C. § 103 as being unpatentable over Hamrick in view of Tucker and Uehara and further in view of Harrelson

On page 20 of the brief, appellant argues that because Harrelson does not cure the asserted deficiencies of Hamrick, Tucker, and Uehara, the applied art does not suggest or teach the subject matter of claim 5.

For the reasons stated above with regard to the previous rejection, we affirm the rejection of claim 5 also.

III. The rejection of claim 1 under 35 U.S.C. § 103 as being unpatenable over Simonelli

Beginning on page 16 of the brief, appellant argues that Simonelli is silent regarding any teaching or suggestion of an exhaust outlet that vents directly externally of the room without any external conduit.

We again refer to our interpretation of claim 1 with regard to the claimed air exhaust outlet. Appellant has not shown that, for example, the exhaust ducting means 35 of Simonelli is patentably distinguishable from outlet 22 as depicted in

appellant's figure 3.

Also, the claim requires that the rear wall of the housing is exposed externally and the air exhaust outlet vent directly externally of the room without any external conduit such that all air and smaller particles of waste material vent outside the room. As pointed out by the examiner on pages 7 and 8 of the answer, Simonelli discloses venting externally of a room without an exhaust conduit, with the stud space being a region external to the room, and refers to column 5, line 71, through column 6, line 3 of Simonelli. Appellant's claims do not preclude the inside of a wall as being "externally of the room."

Appellant also argues that Simonelli does not teach to place the exhaust outlet in the rear wall of the housing. On page 8 of the answer, the examiner states that it would have been obvious to one of ordinary skill in the art to relocate the outlet from the sidewall to the rear wall because it has been held that rearranging parts of an invention involves only routine skill in the art. We agree. Appellant does not demonstrate otherwise.

In view of the above, we affirm the rejection of claim 1 under 35 U.S.C. § 103 as being unpatentable over Simonelli.

IV. The rejection of claim 5 under 35 U.S.C. § 103
as being obvious over Simonelli in view of Harrelson

On page 20 of the brief, appellant argues that because Harrelson does not cure the asserted deficiencies of Simonelli, claim 5 is also allowable. However, for the reasons stated above, because we agree with the examiner's rejection of claim 1

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in view of Simonelli, for the same reasons, we also affirm this rejection.

V. Conclusion

Each of the rejections is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
PETER F. KRATZ)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
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BAP:psb

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